

**Case Name:** Simo Dimic v. Northeast Illinois Regional Commuter Railroad Corporation, d/b/a Metra/Metropolitan Rail

**Date Decided:** December 29th, 2009

**Originally Filed in:** ()

**Decided by:** (State)

**Court:** U.S.D.C. Northern District of Illinois

**Judge:** Judge Nordberg

**Citation:** 2009 WL 5213875 (N.D.Ill.)

**Background:**

Plaintiff, Simo Dimi, brought this action under FELA, Federal Employers' Liability Act, seeking damages for an injury that allegedly occurred while cleaning railroad coach cars for defendant, Metra (Northeast Illinois Regional Commuter Railroad Corp.) Dimic claimed on the day he was injured he was required to clean double the amount of railroad cars than he was normally assigned to clean in one day. According to Dimic, Matra was short workers that day which accounted for the extra cleaning duties. Dimic's initial complaint did not contain much detail. It did not describe what the injury was, nor did it specifically describe how it happened. It did not describe what the injury was nor did it specifically describe how it happened. However, the complaint was sufficient because it sketched the outlines of the lawsuit by focusing on a particular day and by suggesting a specific theory of causation. During the course of this action, Dimic's injury became more complex. Dimic had worked for Metra for many years and suffered a series of similar on-the-job injuries. Several of Dimic's doctors thought his injuries may have been attributed to arthritis while Dimic believed his injuries to be caused by his job. Metra even settled with Dimic at one point. Dimic's amended complaint alleged that Metra knew about his medical problems and further knew his job duties aggravated his injuries. However, Metra denied his requests to be reassigned to a less physically demanding job, such as a desk job. Metra moved for summary judgment arguing that both claims are time-barred under FELA's three year statute of limitations and that Dimic failed to come forward with evidence to show Metra breached any duty to Dimic.

**Issue:**

Did this Court grant Metra's motion for summary judgment finding that FELA'S 3-year statute of limitations barred Dimic's claim and/or upon a finding that Dimic failed to present evidence that Metra breached any duty owed to Dimic?

**Overall Issues Discussed or Touched Upon in this Case:**

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**Held:**

Metra argued that Dimic's injury was merely a manifestation of a larger underlying condition,

that was known to Dimic more than 3 years before the initial complaint was filed. The underlying condition Metra asserted that Dimic suffered from was an "ongoing upper extremity" injury. Metra sought to make Dimic's various injuries from 2000 to 2005 as part of a larger condition. However this Court found disputed issues of fact in resolving this issue and therefore would not be properly resolved through a motion for summary judgment. Metra's description of the injury as an "ongoing upper extremity" injury does not appear to be one used by Dimic's doctors or even commonly recognized in the medical field. However, there is some medical evidence that points to a larger condition including testimony of a Dr. Moreover, Dimic contended that Metra did not reassign him to a desk job even though Metra knew Dimic's duties were causing him medical problems. Dimic made (2) specific requests for reassignment, one in April and one in June of 2002, both outside the 3-year limitations period and both requests were rejected. Metra asserted that these requests were made outside the limitations period and thus, barred. This Court did find that Dimic's latest request was time-barred by the 3-year statute of limitations period. Dimic failed to present any evidence that points to any request inside the 3-year limitation and accordingly, this Court found, as a matter of law, Matra did not breach a duty owed to Dimic. This Court granted Metra's motion for summary judgment, although this action was not time-barred, this Court found no genuine issues of material fact whether Matra breached any duty owed to Dimic.

**Comments:**

FELA comes with a 3-year statute of limitations. That is, the plaintiff must bring an action under FELA within 3 years of the incident giving rise to recovery. The plaintiff may have the duty to investigate a particular cause of an injury to determine whether it is related to their employment with the railroad or caused by something else. Failure to do so results in dismissal of the claim.